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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,110	07/31/2003	Drew Zoller	Z7-6606	7742

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EXAMINER

HAMMOND, BRIGGITTE R

ART UNIT PAPER NUMBER

2833

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/631,110	Applicant(s) ZOLLER, DREW	
	Examiner Brigitte R. Hammond	Art Unit 2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 39-79 is/are pending in the application.
- 4a) Of the above claim(s) 40,42-45,49,66-69,73,75 and 78 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 53-64 is/are allowed.
- 6) ☒ Claim(s) 39,41,47,50-52,65,70-72,74,76 and 79 is/are rejected.
- 7) ☒ Claim(s) 46,48 and 77 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION II**

In the previous Office Action the Examiner mistakenly indicated allowable subject matter. The Examiner apologizes for any inconvenience the mistake may have caused applicant. Following is a new action on merits.

### ***Response to Amendment***

Newly submitted claim 40,42-45,49,66-69,73,75 and 78 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 40,42,43,66,68,69,73 and 75 have a second flange (fig. 8), in claims 49 and 78 the retainer and housing being integrally one piece is shown in fig. 7, and claims 44 and 45 have a component (figs. 9 &10).

Since claim 67 appears to be dependent upon claim 66, claim 67 is also withdrawn from consideration.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40,42-45,49,66-69,73,75 and 78 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the reclosable multiple layered fastener and the fastener disposed in a recess, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 67 objected to because of the following informalities: Regarding claim 67, claim 67 recites "said groove" and "the axis". There is insufficient antecedent basis for these limitations in the claim. Since claim 67 appears to be dependant upon claim 66, claim 67 is also withdrawn from consideration.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39, 41, 47, 50 and 51 are rejected under 35 U.S.C. 102(e) as being unpatentable over Reardon. Reardon discloses a portable electrical device having a cord 214, said portable electrical device comprising a housing and a cord retainer 240, said cord retainer includes a flange 248 which is fixedly connected with said housing and which at least partially defines a groove (not numbered) into which the cord may be manually wound, said cord retainer includes a base 242 having a first end portion which is fixedly connected with said housing and a second end portion which is fixedly connected with said flange, said cord retainer has a central axis which extends through said housing and the base, flange and groove having oval cross sectional configurations as viewed in a plane extending perpendicular to the central axis of said cord retainer (col. 4, line 10).

Regarding claims 47, 50 and 51, the cord retainer has a fastener (col. 3, lines 60-66), which fixedly secures the cord retainer to the side of the housing.

Claims 65 and 71 are rejected under 35 U.S.C. 102(e) as being unpatentable over Vara 6,164,582. Vara discloses a portable electrical device having a cord 76, said portable electrical device comprising a housing and a cord retainer 50, said cord retainer including a flange 42 which at least partially defines a groove into which the cord may be manually wound, said cord retainer includes a base 14 having a first end portion which is fixedly connected with said housing by a reclosable multiple layered fastener 32,34 and a second end portion 12 which is fixedly connected with said flange.

Regarding claim 71, said base includes a recess (for end of 34,32) said reclosable multilayered fastener 32,34 being at least partially disposed in said recess.

Claims 72,76 and 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Vara. Vara discloses a portable electrical device having a cord, said portable electrical device comprising a housing and a cord retainer 50, said cord retainer including a flange 14 which is fixedly connected with said housing and which at least partially defines a groove into which the cord may be manually wound, said flange includes a plurality of spaced apart recesses 18,14 formed in a peripheral portion of said flange, said cord being positionable in any one of said plurality of recesses to connect said cord with said flange at any one of a plurality of locations along the peripheral portion of said flange.

Regarding claim 76, said retainer includes a fastener 32,34.

Regarding claim 79, said retainer is formed separately from said housing and is connected with said housing by a fastener 32,34.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reardon in view of Vara 6,164,582. Reardon discloses the invention substantially as claimed except for the retainer having a plurality of recesses. However, Vara discloses a cord retainer having a plurality of recesses 218, 220. it would have been obvious to one of ordinary skill to modify the connector of Reardon by providing a plurality of recesses on the retainer to retain the cord as taught by Vera.

Claims 70 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vara. Regarding claim 70, Vara discloses the invention substantially as claimed. Vara discloses the recesses being on the base 14. However, it would have been obvious to one of ordinary skill to modify Vara by putting the recesses on the flange 42. Since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Regarding claim 74, Vara discloses the invention substantially as claimed. Vara does not disclose the groove having an oval cross sectional configuration as viewed in a plane extending perpendicular to the central axis of said cord retainer. However, it would have been obvious to modify Vara by having an oval cross-sectional configuration as viewed in a plane extending perpendicular to the central axis of said cord retainer, since applicants have presented no explanation that this particular

configuration of the groove is significant or are anything more than one of numerous configurations a person of ordinary skill in the art would find obvious for the purpose of providing any shaped groove surfaces between two surfaces. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

***Allowable Subject Matter***

Claims 46,48 and 77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent **form including all of the limitations of the base claim and any intervening claims.**

Claims 53-64 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: regarding claims 46,48 and 77, patentability resides, at least in part, in the housing having a surface area cooperating with the flange to further define the groove, in combination with the other limitations of the base claim; regarding claim 53, patentability resides, at least in part, in the device having a cord retainer including a flange and a base, the base having a side which extends transverse to said side of said flange and to said side of said housing and which cooperates with said side of said housing and said side of said flange to at least partially define a groove which extends completely around said base and in which a plurality of turns of the cord are disposed, in combination with the other limitations of the base claim.




### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keane et al. 4,658,456 and Schwob 4,585,194 were cited for similar devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brigitte R. Hammond whose telephone number is 571-272-2006. The examiner can normally be reached on Mon.-Thurs. and Alternate Fridays from 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A Bradley can be reached on 571-272-2800 ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Brigitte R. Hammond  
Examiner  
Art Unit 2833

December 2, 2004